

COACHELLA VALLEY MOUNTAINS CONSERVANCY
Regular Meeting – March 9, 2009, 3:00 PM
73-710 Fred Waring Drive, Conference Room 115
Palm Desert, CA 92260

Tele-conference location:

State of California
Resources Agency
1416 Ninth St., Room 1311
Sacramento, CA 95814

AGENDA

1.0 Call to Order & Introductions

2.0 Approval of Minutes of November 3, 2008 meeting

3.0 Public Comments on Items Not on the Agenda

At this time any member of the public may address the Governing Board on any item not on the agenda. The Board cannot take action on an item not on the agenda, but it can place it on the agenda for a future meeting. For items on the agenda, there will be an opportunity to speak when that item is heard. The Chair may limit the time for each speaker. Any written material may be submitted to the person taking minutes.

4.0 Closed Session – No matter is scheduled

Pursuant to Government Code sections 11126 (a)(1), 11126 (e)(1) and 11126.3(a) the Board may hold a closed session to discuss and take possible action on personnel matters and or receive advice of counsel on pending or potential litigation. In addition, pursuant to Government Code section 11126 (c) 7 (A) the Board may meet in closed session with its negotiator prior to the purchase or sale of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase or sale. Confidential memoranda related to these issues may be considered during such closed session discussions.

5.0 Action items – public hearing (If there is any member of the public who wishes to address the Governing Board before action is taken, testimony from the public should be taken prior to a vote.)

5.1 Consideration of a policy regarding appraisal review and fair market value acquisitions. (See Attachment 1.)

6.0 Reports

6.1 Written reports from staff [See Attachment 2.]

6.2 Board Member comments and reports from Conservancy member agencies. This is an opportunity for any of the Governing Board Members to present a report on matters of interest regarding the agency he or she represents.

7.0 Discussion/Information items

7.1 Conflict of Interest reporting, Form 700. (Reminder to complete the form.)

8.0 Adjourn to the May 11, 2009 meeting.

This agenda is available on our website at <http://www.cvmc.ca.gov>. Anyone with questions about any item on the agenda may contact the Conservancy at 73-710 Fred Waring Drive, Suite 205, Palm Desert, CA 92260. The phone number is (760) 776-5026.

ATTACHMENT 1 – January 12, 2009

Agenda Item 5.1 Consideration of a policy regarding appraisal review and fair market value acquisitions.

BACKGROUND

In the past, the Executive Director has reviewed appraisals submitted by grantees. Because the Department of Finance (DOF) and the Natural Resources Agency disapproved of that approach, DOF rejected the Conservancy's capital outlay budget proposal for FY 2009-10, which would have authorized the expenditure of the remaining \$11.514 million in Proposition 84 bond funds. Following the rejection of the budget proposal, Jim Ferguson, CVMC Governing Board Chair, met with representatives of DOF and the Natural Resources Agency to discuss the issue. At that meeting it was noted that the state does not have a written policy regarding appraisal review for grants. Subsequently, the Natural Resources Agency promulgated the policy attached as Exhibit A to Resolution 2009-01 (see following page), which addresses the issue of appraisal review as well as the issue of providing grant funds toward any acquisition that would exceed fair market value, even if the state share did not exceed market value. The policy was distributed to all the conservancies and other agencies within the Natural Resources Agency that acquire land. The Conservancy has been advised that adoption of the policy by the CVMC Governing Board will result in the addition of our capital outlay budget proposal to the state budget that will be considered by the Legislature for FY 2009-10.

Please feel free to call me with any questions you may have at (760) 776-5026.

STAFF RECOMMENDATION

Staff recommends approval of Resolution 2009-01 adopting the policy promulgated by the Natural Resources Agency.

**RESOLUTION 2009-01 OF THE GOVERNING BOARD OF THE
COACHELLA VALLEY MOUNTAINS CONSERVANCY
ADOPTED IN REGULAR SESSION
MARCH 12, 2009**

**ADOPTION OF A POLICY REGARDING FAIR MARKET VALUE ACQUISITIONS
AND APPRAISAL REVIEW**

WHEREAS, Public Resources Code Section 33501 created the Coachella Valley Mountains Conservancy for the purpose, among other things, of acquiring and holding, in perpetual open space, mountainous lands surrounding the Coachella Valley and natural community conservation lands, upon approval of a Natural Community Conservation Plan, for the protection of natural and cultural resources and the public's enjoyment thereof; and

WHEREAS, Public Resources Code Section 33601(e) provides that the Conservancy may "in order to further the conservancy's purposes as set forth in Section 33501, award grants to cities, counties, resource conservation districts, or nonprofit organizations...."; and

WHEREAS, the Secretary of the Natural Resources Agency has promulgated the policy attached as Exhibit A and hereby incorporated by reference to guide the acquisition program of all departments and agencies within the Natural Resources Agency;

NOW, THEREFORE, be it resolved in regular session of the Governing Board of the Coachella Valley Mountains Conservancy that the Board adopts this policy to govern its acquisition program, including acquisitions made with grants from the Conservancy.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Coachella Valley Mountains Conservancy Governing Board, held on this 9th day of March 2009, by the following vote, to wit:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jim Ferguson, Chairman
Coachella Valley Mountains Conservancy

EXHIBIT A



ARNOLD SCHWARZENEGGER, Governor
MIKE CHRISMAN, Secretary for Natural Resources

MEMORANDUM

TO: Agency Department Directors

FROM: Mike Chrisman, Secretary for Natural Resources

A handwritten signature in black ink, appearing to read "Mike Chrisman".

DATE: February 2, 2009

One of the goals of the Natural Resources Agency and its departments, boards and commissions is to protect the state's natural resources. Thanks to the generosity of the voters of California, we have had the opportunity to acquire or assist in acquisitions of many acres of invaluable habitat and recreational lands.

As custodians of bond funds, it is incumbent upon us to make decisions based on sound judgment that safeguard the public's trust. I would like to highlight the importance of adhering to the following policies when participating in acquisition transactions:

Fair Market Value – The Attorney General has opined that the state cannot legally make a payment which exceeds the fair market value as this would be considered a gift of public funds in violation of the California Constitution, Article 16, Section 6. Therefore, state payments for all acquisitions should not exceed the fair market value based upon a state approved appraisal.

In addition, the Natural Resources Agency endorses a policy, for all of its departments, boards and commissions, to not participate in transactions that exceed fair market value – even when the State is only contributing an amount equal to or less than the state approved appraised value.

Third Party Appraisal Review - Prior to funding, all acquisitions, including grants, should not only be backed by an appraisal supporting the purchase price, but also written concurrence from an independent third party appraisal review, preferably one performed by the Department of General Services (DGS), attesting to the appraisal's compliance with applicable DGS standards and requirements.

ATTACHMENT 2 - March 12, 2009

Agenda Item 6.1 Written Reports from Staff

Acquisitions and Funding

Escrow closed on the Mackenzie Ranch acquisition in Whitewater Canyon at the end of December. This completes acquisition of lands along Whitewater River and protects the largest riparian (streamside) habitat area in the Coachella Valley as well as desert tortoise habitat on the upland portion of the property. BLM may receive \$1.3 million in Land and Water Conservation Fund appropriations for acquisitions in the National Monument. Appraisals of the highest priority parcels for acquisition in the Multiple Species Habitat Conservation Plan Conservation Areas have been completed, and it is anticipated that the Coachella Valley Conservation Commission will be initiating acquisitions from willing sellers soon. The Friends of the Desert Mountains obtained grant funds from Resources Legacy Fund Foundation to acquire 30 acres of alluvial fan in the southern Santa Rosa Mountains. A number of other projects the Friends had in progress in anticipation of submitting grant requests to CVMC were placed on hold pending the freeze on Proposition 84 grant funds being lifted.

Trails Planning and Construction Update

Northern Coachella Valley Trails Plan

Geary Hund and Joan Taylor met with representatives of the managing agencies in the northern Coachella Valley conceptual trails plan area to get their input and feedback on the conceptual trail and trailhead designations. Geary is working with Joan to identify trails and trailheads for submission the County of Riverside for possible inclusion in their update of the non-motorized trails portion of the transportation element of the General Plan.

Herman's Hike (Willis Palms to Moon Country Connector Trail)

The trail contractor, Mike Schuler, finished construction of the new trail between Willis Palms and Moon Country in the Coachella Valley Fringe-toed Lizard Preserve in January. Some minor corrections to the slope of portions of the trails still need to be made, but the trail is now open for use. Named Herman's Hike, the trail is already immensely popular. A dedication event is being planned.

Frank Bogert Trailhead

Geary Hund has been working with the City of Palm Springs on the proposed trailhead on the Andreas Hills Property. He assisted the Friends of the Desert Mountains in preparing and submitting a permit application to them. A land use permit was subsequently issued. He is currently working with the City's engineering staff on a grading plan. Discussions are also underway on the granting of an easement or reciprocal use agreement which would allow the City to participate in the management of the facility.

Pushawalla Palms Trail

Geary provided technical expertise and his “back,” assisting the manager of the Coachella Valley Fringe-toed Lizard Preserve, Ginny Short, and a group of enthusiastic volunteers from the Desert Trails Hiking club led by Jane Udall, in replacing worn out steps and adding new ones on a steep section of the Pushawalla Palms trail just east of Thousand Palms Canyon Road.

CVAG OHV taskforce update

The CVAG OHV Task Force meeting was held on February 24, 2009.

Sgt. Paul Herrera, a taskforce police officer from Cathedral City, provided information on upcoming scheduled deployments for the Iron Door, Edom Hill, Whitewater Flood Control, Painted Canyon and Box Canyon areas.

Lynda Gregory, from Supervisor Wilson’s office, provided information about OHV signs that have been posted in target areas. She also noted that Supervisor Wilson has appointed Ryan Stendall to replace Brain Nestande on the Riverside County OHV Commission.

Jacob Alvarez, CVAG, mentioned to the taskforce that he received a phone call about the Red Jeep Tours accessing public lands without permits. Derek Anderson, BLM Ranger, noted that the company has been cited for these offenses.

The next OHV meeting is scheduled for March 24, 2009 @ 10:00 A.M. in CVAG Suite 200.